

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

JARED WOODFILL,	§	
STEVEN F. HOTZE, MD,	§	
F.N. WILLIAMS, SR. and	§	
MAX MILLER,	§	
	Plaintiffs,	§
		§
vs.	§	C.A. _____
	§	
ANNISE D. PARKER, MAYOR,	§	
ANNA RUSSELL, CITY SECRETARY,	§	
and CITY OF HOUSTON	§	
	Defendants.	§

**NOTICE OF REMOVAL**

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT:

Pursuant to Title 28 U.S.C. §§1331 and 1441(a), Defendants, Mayor Annise Parker (“the Mayor”), City Secretary Anna Russell (Ms. Russell), and the City of Houston (“the City”) (collectively “Defendants”), give notice of their removal of an action filed against them in the 152nd Judicial District Court of Harris County, Texas, to the United States District Court for the Southern District of Texas, Houston Division. In support, Defendants respectfully state as follows:

**Introduction**

1. On or about August 5, 2013, Plaintiffs filed in state district court Cause No. 2014-44974, *Jared Woodfill, Steven F. Hotze, M.D., F. N. Williams, Sr., and Max Miller,*

*Plaintiffs, v. Annise D. Parker, Mayor, Anna Russell, City Secretary, and the City of Houston, Defendants, in the 152nd Judicial District Court, Harris County, Texas.*

2. Though Plaintiffs have not yet properly served any of the Defendants with Plaintiffs' Original Petition and Request for Declaratory Judgment and Immediate Injunctive Relief, Defendants were notified of the suit immediately before the state district court conducted a hearing on Plaintiffs' request for a temporary restraining order on August 5, 2014. The state district court has not yet ruled on this request for a temporary restraining order.

3. This Notice of Removal is therefore timely filed less than thirty (30) days after receipt by the Defendants of the initial pleading setting forth the claim for relief upon which such action is based. The Mayor, Ms. Russell, and the City are the only defendants in this case, and all seek removal.

4. The United States District Court for the Southern District of Texas, Houston Division is the federal judicial district encompassing Harris County, Texas. Therefore the Southern District of Texas, Houston Division, is the appropriate location for a removal from Harris County, Texas, pursuant to 28 U.S.C. § 1441(a).

5. The Clerk of the District Court of Harris County was given notice of the filing of the removal. Plaintiffs' counsel have been given notice of the filing of this Notice of Removal.

### **Federal Question Jurisdiction**

6. Defendants remove this action to federal court based on federal question jurisdiction under 28 U.S.C. § 1441(a). The issues presented in this action present substantial questions of federal law. Removal is proper under section 1441(a) because Plaintiffs expressly pleaded a federal question in their original petition (Original Petition, ¶ 17). *See Grable & Sons Metal Prods., Inc. V. Darue Eng'g & Mfg., 545 U.S. 308, 312 (2005); Broder v. Cablevision Sys. Corp., 418 F.3d 187, 194 (2d Cir. 2005).*

7. In addition, Plaintiffs have included claims under the Houston City Charter and the Texas Constitution which are so related to the claims in the action within the court's original jurisdiction that they form part of the case or controversy under Article III of the United States Constitution. As a consequence, this court "shall have supplemental jurisdiction" over these claims. 28 U.S.C. § 1337(a).

### **Pertinent Background**

8. Plaintiffs premise their action upon Mayor's August 4, 2014 announcement that the petitioners had failed to obtain the sufficient number of valid signatures on a referendum petition attempting to repeal the City Ordinance No. 2014-530, denominated in the Plaintiffs' pleading as the "Equal Rights Ordinance (ERO)." Plaintiffs' petition asks for a declaration pursuant to Texas Declaratory Judgment Act that their petition was timely filed, is otherwise valid, and contains more than the minimum number of required signatures of registered City of Houston voters. Plaintiffs' petition avers that "by improperly rejecting the

ERO Referendum Petition, Defendants have wrongfully stripped these Plaintiffs from their right to petition government for a redress of their grievances, in violation of the Houston City Charter, as well as the State and Federal Constitutions.”

9. All defendants who have been properly joined (but not yet served) join in or consent to the removal of this case to federal court. 28 U.S.C. 1446(b)(2)(A); *Cook v. Randolph Cnty.*, 573 F.3d 1143, 1150-51 (11th Cir. 2009)

10. Copies of all pleadings, process, orders, and other filings in the state court suit are attached to this notice as required by 28 U.S.C. § 1446(a).

11. Venue is proper in this district under 28 U.S.C. § 1441(a) because the state court where the suit has been pending is located in this district.

12. Defendants have complied with Local Rule 81 by attaching the following documents:

1. All pleadings asserting causes of action (Exhibit A);
2. The state court docket sheet (Exhibit B);
3. A list of all counsel of record, including addresses, telephone numbers and parties represented (Exhibit C);
4. An index of the documents being filed (Exhibit D).

13. Defendants will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending.

**Jury Demand**

14. Plaintiffs did not demand a jury in the state-court suit.

### **Conclusion**

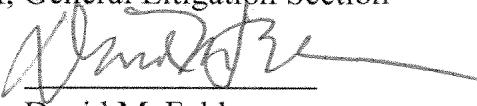
15. Because of the expressly pleaded federal question in Plaintiffs' state court action under 28 U.S.C. § 1441(a), this removal to federal court by the Mayor, Ms. Russell, and the City is proper.

WHEREFORE, Defendants Mayor Annise D. Parker, Anna Russell, City Secretary, and the City of Houston, hereby give notice that this action is removed from the 152nd Judicial District Court, Harris County, Texas, to the United States District Court, Southern District of Texas, Houston Division.

Dated: August 6, 2014

Respectfully submitted,

DAVID M. FELDMAN  
City Attorney  
LYNETTE K. FONS  
First Assistant City Attorney for Litigation  
JUDITH L. RAMSEY  
Chief, General Litigation Section

By: 

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Attorneys for Defendants,  
ANNISE D. PARKER, Mayor,  
ANNA RUSSELL, City Secretary, and  
THE CITY OF HOUSTON

**CERTIFICATE OF SERVICE**

I, David M. Feldman, hereby certify that on the **6<sup>th</sup> of August, 2014**, a copy of the foregoing **Notice of Removal** was served upon the following parties via electronic service, facsimile, and/or CMRRR:

Andy Taylor & Assoc., P.C.  
2668 Highway 36S, #288  
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Counsel for Plaintiffs



David M. Feldman